

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NORTH CAROLINA
RALEIGH DIVISION

IN RE:

GARY KEVIN COATS,

DEBTOR

DAVID M. WARREN, TRUSTEE in
Bankruptcy for Gary Kevin Coats,

PLAINTIFF

v.

GARY KEVIN COATS and
ROI PARKER,

DEFENDANTS.

CASE NO. 09-01032-8-JRL

CHAPTER 7

ADVERSARY PROCEEDING
NO. 09-00194-8-JRL

STATEMENT OF ACTUAL DAMAGES

Now comes David M. Warren ("Plaintiff"), the plaintiff in the above-referenced adversary proceeding, and files this Statement of Actual Damages as detailed in the attached Exhibit A.

The Plaintiff further states that the Plaintiff should receive punitive damages that are in addition to the actual damages requested herein.

Dated: June 15, 2010

POYNER SPRUILL LLP

By: /s/ David M. Warren
David M. Warren
N.C. State Bar No. 12581
Attorneys for Plaintiff
Post Office Box 1801
Raleigh, NC 27602
Telephone: (919) 783-6400
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005600-09077003

Poyner Spruill^{LLP}
ATTORNEYS AT LAW

PHONE: (919) 783-6400
FED ID #: 56-1493995

Post Office Box 1801
Raleigh, North Carolina 27602-1801

June 10, 2010

Invoice# 412714

BANKRUPTCY TRUSTEE CASES

RE: GARY KEVIN COATS: DISCHARGE ADVERSARY PROCEEDING

Fees for Professional Services Through 06/10/10	35,380.00
Expense Advances Through 06/10/10	3,708.82
Amount Due For This Invoice	\$39,088.82

----- SERVICES SUMMARY -----

PARTNER

DMW	DAVID M. WARREN	13.20 hrs @	415.00 per hour	5,478.00
DMW	DAVID M. WARREN	26.80 hrs @	395.00 per hour	10,586.00

ASSOCIATE

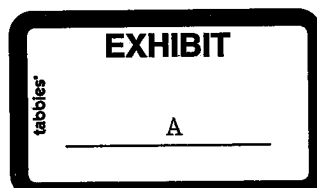
JWH	JULIE W. HAMPTON	56.40 hrs @	265.00 per hour	14,946.00
JWH	JULIE W. HAMPTON	1.50 hrs @	240.00 per hour	360.00

PARALEGAL

PXD	PATRICIA DUCHARME	18.90 hrs @	175.00 per hour	3,307.50
PXD	PATRICIA DUCHARME	3.60 hrs @	165.00 per hour	594.00
KSW	KELLY S. WILLIAMS	0.70 hrs @	155.00 per hour	108.50

TOTAL FEES:	\$ 35,380.00
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TOTAL FEES AND EXPENSES:	\$ 39,088.82
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INVOICES ARE PAYABLE UPON RECEIPT

POYNER & SPRUILL
Page 2

005600-09077003

June 10, 2010

Invoice# 412714

BANKRUPTCY TRUSTEE CASES - DMW

RE: GARY KEVIN COATS: DISCHARGE ADVERSARY PROCEEDING

06/03/09	DMW	Review issue on judgment. Review title search. (.3). Receipt and review of memorandum from closing counsel. Preparation of response memorandum re same. (.3). Preparation of memorandum to Richard Sparkman re judgment lien. (.2). Receipt and review of amended schedule C. Receipt and review of memorandum from realtor re status of motion. Preparation of response memorandum re same. (.3).	1.10	434.50
06/04/09	DMW	Telephone conference with Jason Watson re exemptions and change in contract, closing issues.	0.30	118.50
06/05/09	DMW	Telephone conference with Thurston Debnam re closing of sale and possible side agreement on compensation.	0.30	118.50
06/08/09	DMW	Investigate actions by realtor in the sale of condo. (.5). Telephone conference with Ann-Cabell Anderson re no affiliation with Roi Parker. (.6). Review issues on fraud in sale. (.7).	1.80	711.00
06/08/09	PXD	Telephone call from Jason Watson, attorney for Debtor, regarding closing and demand for information needed to obtain payoff on second Deed of Trust.	0.60	99.00
06/08/09	PXD	Initial drafting of Trustee's Deed to M/M Proctor of Unit 512 of Dawson on Morgan Condominium.	0.50	82.50
06/08/09	PXD	Preparation of Subpoena to Glenwood Agency regarding communication and documentation relating to sale of condo to M/M Proctor and service of same.	0.40	66.00
06/09/09	DMW	Conference with Ann Cabell Baum Anderson re facts of case and investigation of fraud.	1.40	553.00
06/11/09	DMW	Review HUD. Preparation of trustee's deed. (.3). Review memorandum from Steve Rhudy re response to letter about acting for Glenwood Agency. (.3).	0.60	237.00
06/15/09	DMW	Review legal action against debtor and Roi Parker.	0.50	197.50
06/15/09	PXD	Review objection to Debtor's discharge with trustee.	0.20	33.00
06/17/09	DMW	Telephone conference with Stephen Rhudy re email and correspondence to realtor. (.3). Telephone conference with Ann-Cabell Andersen re communication from counsel for Roi Parker. (.3). Telephone conference with Stephen Rhudy re no information on correspondence and assistance with investigation. (.5). Investigate fraud upon estate. (.6).	1.70	671.50
06/17/09	PXD	Begin drafting Objection to Amended Exemptions.	0.30	49.50

POYNER & SPRUILL
Page 3

005600-09077003

June 10, 2010

Invoice# 412714

BANKRUPTCY TRUSTEE CASES - DMW

RE: GARY KEVIN COATS: DISCHARGE ADVERSARY PROCEEDING

06/23/09	DMW	Attend hearing on motion to extend time for dischargeability. (1.0). Conference with Tolor Workman re additional facts of case and fraud. (.3).	1.00	395.00
06/26/09	DMW	Preparation of objection to exemptions.	0.60	237.00
06/26/09	PXD	Revise Objection to Amended Exemptions and Order; ECF filing and service of same.	0.50	82.50
07/08/09	PXD	Review of Complaint by Ms. Ratledge; and telephone call to attorney regarding missing exhibits.	0.20	33.00
07/13/09	PXD	Review of file and pleadings in connection with hearing scheduled on July 16, 2009; telephone call with Ms. Boyette regarding Amended Schedules and Trustee's Objection to Amended Schedules.	0.40	66.00
07/15/09	DMW	Receipt and review of response to exemption objection.	0.20	79.00
07/15/09	PXD	Review of file for preparation of hearing on July 16, 2009; telephone call from Allyson regarding removal of hearing from calendar.	0.20	33.00
07/16/09	DMW	Telephone conference with Toler Ratledge re complaint objecting to dischargeability.	0.30	118.50
07/17/09	DMW	Receipt and review of letter from NC Real Estate Commission on complaint filed. Preparation of letter to Stephen Fussell re same.	0.30	118.50
08/10/09	PXD	Telephone call and emails from Mr. Watson, attorney for debtor, regarding hearing on trustee's objection to amended exemptions and allegations of fraud; email to Mr. Warren.	0.30	49.50
08/13/09	DMW	Receipt and review of memorandum from Jason Watson re objection to exemptions. Preparation of response memorandum re same. (.3). Review response to exemption issue. (.2).	0.50	197.50
09/07/09	DMW	Preparation of complaint objecting to discharge.	0.50	197.50
09/07/09	DMW	Review of email exchanges to formulate causes of action and to support complaint.	1.50	592.50
09/08/09	DMW	Preparation of complaint and exhibits for discharge action.	9.50	3,752.50
09/08/09	PXD	Initial drafting of Complaint, Summons and email to Mr. Warren.	0.50	87.50
09/09/09	DMW	Preparation of amended complaint. (1.0). Receipt and review of memorandum from J. Watson re hearing on objection to exemptions. Preparation of response memorandum re same (.4). Preparation of consent order continuing hearing on objection to exemptions. (.4).	1.80	711.00

POYNER & SPRUILL

005600-09077003

Page 4

June 10, 2010

Invoice# 412714

BANKRUPTCY TRUSTEE CASES - DMW

RE: GARY KEVIN COATS: DISCHARGE ADVERSARY PROCEEDING

09/09/09	PXD	Review of Complaint; email to Mr. Warren regarding Summons and filing of Complaint.	0.40	70.00
09/10/09	DMW	Preparation of certificate of service of complaint.	0.30	118.50
09/21/09	PXD	Review of filed documents in adversary proceeding; preparation of Affidavit of Service on Coats and Parker.	0.40	70.00
09/30/09	DMW	Receipt and review of answer and counterclaims. (.4). Preparation of letter to AC Andersen re same. (.3).	0.70	276.50
10/09/09	PXD	Initial drafting of Answer to Counterclaim of Gary Kevin Coats.	0.50	87.50
10/09/09	PXD	Review of allegations of Complaint, Answer and Counterclaim; initial drafting of Preliminary Pretrial Preconference Report.	0.70	122.50
10/16/09	DMW	Review counterclaims. Preparation of answer to same.	0.80	316.00
10/16/09	DMW	Preparation of answer to counterclaim. Telephone conference with Roi Parker re testimony at trial.	0.80	316.00
11/11/09	JWH	Review deposition needs and status report question. Review file.	0.40	96.00
11/11/09	PXD	Prepare pleadings for review by Ms. Hampton regarding allegations of complaint and deposition Mr. Parker.	0.30	52.50
11/12/09	JWH	Review answer of Coats. Revise preliminary report.	0.40	96.00
11/12/09	PXD	Revisions to Preconference Report; letters to Mr. Coats and Mr. Parker regarding same.	0.50	87.50
11/16/09	PXD	Review deposition of Mr. Coats with Mr. Warren; emails to Ms. Hampton and Mr. Behr from Bankruptcy Administrator's Office regarding same.	0.10	17.50
11/17/09	DMW	Receipt and review of preliminary pretrial conference reports from defendants.	0.30	118.50
11/17/09	PXD	Revise Plaintiff's Pretrial Report; email to Ms. Hampton regarding changes based on reports filed by Defendants.	0.30	52.50
11/18/09	JWH	Review and revise pre trial report and notice of deposition. Coordinate with P. Ducharme re same.	0.40	96.00
11/18/09	PXD	Final revisions to Preconference Report.	0.20	35.00
11/18/09	PXD	Preparation of Notice of Deposition.	0.50	87.50
11/18/09	PXD	Review Subpoena with Ms. Hampton; preparation of Subpoena to Roi Parker.	0.30	52.50

POYNER & SPRUILL
Page 5

005600-09077003

June 10, 2010

Invoice# 412714

BANKRUPTCY TRUSTEE CASES - DMW

RE: GARY KEVIN COATS: DISCHARGE ADVERSARY PROCEEDING

11/18/09	PXD	ECF filing and service of Preconference Report and Notice of Deposition.	0.40	70.00
11/20/09	JWH	Discussion with R. Parker re postponement of deposition. Review file to determine trial date in response.	0.30	72.00
12/02/09	JWH	Review file and prepare for pre-trial conference. Email to bankruptcy administrator re new deposition date for Roi Parker.	0.30	79.50
12/03/09	JWH	Review file in preparation for pre-trial conference. Attend pre-trial conference.	1.50	397.50
12/04/09	PXD	Preparation of Amended Notice of Deposition and Subpoena for Roi Parker.	0.30	52.50
12/08/09	PXD	Calendaring deadlines in adversary proceeding.	0.10	17.50
12/31/09	JWH	Review and analysis of pleadings. Prepare deposition outline in preparation for deposition of Roi Parker.	4.00	1,060.00
01/04/10	JWH	Telephone call with R. Parker re deposition.	2.30	609.50
01/04/10	KSW	Preparation of exhibits for deposition.	0.70	108.50
01/05/10	JWH	Prepare for and take deposition of R. Parker.	4.70	1,245.50
01/11/10	JWH	Review and revise deposition notice for G. Coats. Coordinate court report and timing.	0.20	53.00
01/11/10	PXD	Preparation of Notice of Deposition of Gary Kevin Coats and Subpoena; ECF filing of Notice.	0.50	87.50
01/24/10	JWH	Prepare for deposition of K. Coats.	4.00	1,060.00
01/25/10	DMW	Review discovery issues. Telephone conference with John Orcutt re same. (.3). Telephone conference with Steve Fussell of NC Real Estate Commission re deposition, allegations against debtor, case for fraud. (.4).	0.70	290.50
01/25/10	JWH	Prepare for and depose Kevin Coats. Review and revise motion to compel remainder of Coats' deposition.	5.50	1,457.50
01/25/10	PXD	Attending Deposition of Debtor and notes to files.	3.00	525.00
01/26/10	JWH	Revise motion to compel. Draft order to compel.	0.50	132.50
01/26/10	PXD	Revisions to Motion to Compel and Order in adversary proceeding.	0.20	35.00
01/26/10	PXD	Initial drafting of Amended Notice of Deposition.	0.20	35.00

POYNER & SPRUILL
Page 6

005600-09077003

June 10, 2010

Invoice# 412714

BANKRUPTCY TRUSTEE CASES - DMW

RE: GARY KEVIN COATS: DISCHARGE ADVERSARY PROCEEDING

01/26/10	PXD	Review of email from Mr. Behr and notes from Mr. Coats' deposition; drafting Subpoena for Mr. Coats for February 12, 2010; drafting Exhibit list of documents to produce.	0.50	87.50
01/26/10	PXD	Listen to parts of Debtor's testimony at Creditors Meeting and email to Ms. Hampton relating to testimony about transfers of personal property set forth on SOFA.	0.30	52.50
01/27/10	PXD	Telephone call with Julie Boyette regarding Motion to Compel in adversary proceeding; discuss Rules relating to notice.	0.20	35.00
01/29/10	JWH	Review and revise motion to compel and deposition notice.	0.40	106.00
01/29/10	PXD	Revisions to Motion to Compel, Amended Notice of Deposition and Subpoena to Mr. Coats and ECF filing.	0.50	87.50
02/02/10	DMW	Receipt and review of letter from Steve Fussell of NC Real Estate Commission re depositions and contracts. (.3). Preparation of response letter re same. (.5). Review deposition of Roi Parker. (.9).	1.70	705.50
02/02/10	JWH	Review and analysis of letter and information from Real Estate Commission. Prepare e-mail to Real Estate Commission re same.	0.90	238.50
02/04/10	JWH	Review Kevin Coats' dep transcript. E-mail same to S. Fussell.	0.20	53.00
02/17/10	JWH	Review docket to see if order to compel has been granted.	0.20	53.00
02/17/10	PXD	Email to Case Administrator requesting status of Order on Motion to Compel Attendance.	0.10	17.50
02/24/10	DMW	Receipt and review of letter from Charles Proctor re demand for payment for appliances. Preparation of response letter re denial of claim. (.4). Telephone conference with Hunter Wyche re settlement of Ratladge. (.3).	0.70	290.50
02/26/10	DMW	Telephone conference with Danny Bradford re deposition. Telephone conference with Brian Behr re deposition.	0.50	207.50
02/26/10	JWH	Work on dep prep.	0.30	79.50
02/26/10	PXD	Email with Ms. Hampton and Mr. Behr regarding deposition of Mr. Coats on March 1, 2010.	0.10	17.50
02/28/10	JWH	Prepare for deposition of K. Coats.	1.50	397.50
03/01/10	JWH	Prepare for deposition of Kevin Coats. Take deposition of Kevin Coats.	6.60	1,749.00
03/19/10	DMW	Receipt and review of motion to approve settlement.	0.20	83.00
03/23/10	PXD	Telephone call with Rick Hinson from BA's office regarding exhibits; meeting with Mr. Hinson.	0.30	52.50

POYNER & SPRUILL

005600-09077003

Page 7

June 10, 2010

Invoice# 412714

BANKRUPTCY TRUSTEE CASES - DMW

RE: GARY KEVIN COATS: DISCHARGE ADVERSARY PROCEEDING

04/09/10	PXD	Review of adversary proceeding and pretrial order and note regarding preparation for trial on June 9, 2010.	0.20	35.00
04/16/10	DMW	Review deposition transcript.	1.50	622.50
05/11/10	DMW	Telephone conference with Danny Bradford re possible settlement offer. Preparation of memorandum to file re same	0.30	124.50
05/14/10	PXD	Telephone call with Ms. McNeill in Clerk's Office regarding submission of Final Pretrial Order and trial.	0.20	35.00
05/14/10	PXD	Review of Scheduling Order; initial draft of Final Pretrial Order; email to Mr. Warren and Ms. Hampton regarding trial.	0.30	52.50
05/20/10	JWH	Email D. Bradford to confirm representation. Prepare final pretrial order. Email same to D. Bradford.	2.00	530.00
05/21/10	PXD	Revisions to Final Pretrial Order; telephone call with Clerk's Office and emails with Mr. Bradford on trial issues.	0.70	122.50
05/22/10	DMW	Receipt and review of amended answer.	0.20	83.00
05/24/10	JWH	Review pre-trial order and file in preparation for hearing.	0.50	132.50
05/24/10	PXD	Telephone call from Clerk's Office (2) regarding Final Pretrial Conference; discuss with Mr. Bradford and Ms. Hampton.	0.20	35.00
05/25/10	JWH	Prepare for and attend final pre-trial conference. Review proposed amended answer. Email to D. Bradford re same.	1.80	477.00
05/27/10	DMW	Receipt and review of settlement offer from debtor. Preparation of response to offer. Telephone conference with Steve Fussell re status of commission action.	0.50	207.50
05/27/10	DMW	Preparation of settlement offer on adversary proceeding. Receipt and review of memorandum from Danny Bradford re settlement. Preparation of response memorandum re same.	0.50	207.50
05/28/10	DMW	Review settlement offers. (.3). Telephone conference with Steve Fussell re status of trial. (.2).	0.50	207.50
05/28/10	PXD	Research Section 727 - grounds for objection to discharge and provide information to Ms. Hampton.	0.20	35.00
06/01/10	DMW	Receipt and review of memorandum from Danny Bradford re settlement offer. Preparation of response memorandum re same. Receipt and review of memorandum from Danny Bradford re settlement offer revision. Preparation of response memorandum re same.	0.60	249.00

POYNER & SPRUILL
Page 8

005600-09077003

June 10, 2010

Invoice# 412714

BANKRUPTCY TRUSTEE CASES - DMW

RE: GARY KEVIN COATS: DISCHARGE ADVERSARY PROCEEDING

06/03/10	JWH	Review and analysis of damages issues and case law re the same. E-mail to D. Bradford re records of damages.	1.00	265.00
06/04/10	JWH	Prepare for trial.	2.00	530.00
06/07/10	JWH	Prepare stipulations for trial. Prepare case law references and examinations for trial.	6.50	1,722.50
06/07/10	PXD	Emails and conference with Ms. Hampton regarding trial preparation.	0.20	35.00
06/07/10	PXD	Review of exhibits to Complaint and review of Stipulations; preparation of Exhibits and Exhibit List for trial.	2.00	350.00
06/08/10	DMW	Receipt and review of memorandum from Danny Bradford re settlement and damages. Preparation of memorandum to Danny Bradford re same. (.5). Preparation for trial on discharge and damages (1.8).	2.30	954.50
06/08/10	JWH	Review time entries. Research and analysis of case law. Review Coats' deposition transcript.	2.10	556.50
06/08/10	PXD	Discuss trial testimony with Mr. Warren and rejection of settlement.	0.20	35.00
06/09/10	DMW	Preparation for and attendance at Section 727 trial.	3.00	1,245.00
06/09/10	JWH	Prepare for and try adversary proceeding against Mr. Coats.	7.40	1,961.00
06/09/10	PXD	Instructions from Ms. Hampton regarding trial exhibits and amending Exhibit List.	0.30	52.50
06/09/10	PXD	Review Exhibit List and preparation of additional trial exhibits.	0.50	87.50
06/09/10	PXD	Drafting Stipulation of Voluntary Dismissal as to Roi Parker.	0.30	52.50
06/09/10	PXD	Attending trial and assisting attorney with exhibits and notes of testimony and cross examination.	2.00	350.00
06/09/10	PXD	Email from/to Courtroom Deputy forwarding cases discussed at trial at the request of Judge Humrickhouse.	0.20	35.00

TOTAL FEES:

35,380.00

POYNER & SPRUILL
Page 9

005600-09077003

June 10, 2010

Invoice# 412714

BANKRUPTCY TRUSTEE CASES - DMW

RE: GARY KEVIN COATS: DISCHARGE ADVERSARY PROCEEDING

EXPENSE ADVANCES:

07/02/09	Professional Services - RHONDA, LLC - 6/3/09	8.00
09/10/09	Bulk Copies	141.00
09/29/09	Express Services - FEDEX - 9/10/09 Package sent to Gary Kevin Coats, Raleigh, NC.	18.97
02/04/10	Transcript Fee - CAPITAL REPORTING, INC. - 1/5/10 Deposition of Roi Parker	1,122.85
03/01/10	Bulk Copies	426.80
04/16/10	Reporting Services - CAPITAL REPORTING, INC. - 3/1/10 Deposition Copy of Gary Kevin Coats Vol. 2	1,255.50
05/21/10	Transcript Fee - 2/10/10 Deposition of Gary Kevin Coats	735.70

TOTAL EXPENSES: 3,708.82

TOTAL FEES AND EXPENSES THIS INVOICE: 39,088.82
AMOUNT DUE FOR THIS INVOICE: \$39,088.82

CERTIFICATE OF SERVICE

I, David M. Warren, of Poyner Spruill LLP certify:

That I am, and at all times hereinafter mentioned was, more than eighteen (18) years of age;

That on this day, I served a copy of the foregoing Statement of Actual Damages on:

Roi Parker 617 Oberlin Rd. Raleigh, NC 27605	Brian C. Behr, Esq. U.S. Bankruptcy Administrator 434 Fayetteville St., Suite 620 Raleigh, NC 27601
Gary Kevin Coats P. O. Box 12183 Raleigh, NC 27605	Paul D. Bradford, Esq. 6512 Six Forks Road Suite 304 Raleigh, NC 27615

by depositing same in the United States mail, first class, postage prepaid (by certified mail, return receipt requested, if applicable)

I certify under penalty of perjury that the foregoing is true and correct.

Dated: June 15, 2010

POYNER SPRUILL LLP

By: /s/ David M. Warren
David M. Warren
N.C. State Bar No. 12581
Attorneys for Plaintiff
Post Office Box 1801
Raleigh, NC 27602
Telephone: (919) 783-6400
Facsimile: (919) 783-1075